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Office or Regional office Division responsible for performing contracting or contract administration functions.

(b) In FAS Central Office—

(1) The Assistant Commissioner for Assisted Acquisition Services or designee;

(2) The Assistant Commissioner for General Supplies and Services or designee;

(3) The Assistant Commissioner for Integrated Technology Services or designee;

(4) The Assistant Commissioner for Travel, Motor Vehicle and Card Services or designee; and

(5) The Assistant Commissioner for Acquisition Management or designee for support offices with contracting functions.

(c) In FAS Regions, the Assistant Regional Commissioner or designee.

Contracting officer's representative (COR), contracting officer's technical representative (COTR), or contract administrator means a Government employee designated in writing by the contracting officer to perform specific limited activities for the contracting officer, such as contract administration.

Debarring official or “suspending official” means the Senior Procurement Executive or a designee.

Head of the contracting activity means the Deputy Chief Acquisition Officer; Commissioners of the Federal Acquisition Service (FAS) or Public Buildings Service (PBS); or Regional Commissioners. The Deputy Chief Acquisition Officer serves as the HCA for Central Office contracting activities outside of FAS and PBS.

Senior procurement executive means the Deputy Chief Acquisition Officer.

Senior program official means a person reporting to, and designated by, the HCA to have overall program responsibility for determining how the agency will meet its needs. The official should have a position of authority over the participating offices. Examples include Assistant Regional Commissioners or Deputy Commissioners.

[74 FR 39564, Aug. 7, 2009]

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PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 503.1—Safeguards

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AUTHORITY: 40 U.S.C. 121(c).

SOURCE: At 64 FR 37204, July 9, 1999, unless otherwise noted.

Subpart 503.1—Safeguards

503.104 Procurement integrity.

Subpart 503.2—Contractor Gratuities to Government Personnel

503.204 Treatment of violations.

(a) The Senior Procurement Executive, or designee, makes determinations under FAR 3.204.

The Senior Procurement Executive, or designee, takes all the following actions:

(1) Coordinates with legal counsel;

(2) Initiates proceedings under FAR 3.204(a) by notifying the contractor that GSA is considering action against the contractor for a violation of the Gratuities clause. Notice is sent by a certified letter to the last known address of the party, its counsel, or agent for service of process. In the case of a business, notice is sent to any partner,

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principal officer, director, owner or co-owner; and

(3) Presumes receipt if no return receipt is received within 10 calendar days after mailing the notice.

(b) The contractor has 30 calendar days to exercise its rights under FAR 3.204(b), unless the Senior Procurement Executive, or designee, grants an extension.

(c) If there is a dispute of fact material to making a determination, the Senior Procurement Executive, or designee, may refer the matter to an agency fact-finding official, designated by the Suspension and Debarment Official, in accordance with GSAR 509.403. Referrals for fact-finding are not made in cases arising from a conviction or indictment as defined in FAR 9.403. If a referral is made, the fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts relating to the determinations under FAR 3.204(a)(1) and (2);

(2) Conducts proceedings under rules consistent with FAR 3.204(b);

(3) Schedules a hearing within 20 calendar days of receipt of the referral. The contractor or GSA may request an extension for good cause; and

(4) Delivers to the Senior Procurement Executive, or designee, written findings of fact (together with a transcription of the proceedings, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

(d) The Senior Procurement Executive, or designee, may reject the findings of the fact-finding official only if the findings are clearly erroneous or arbitrary and capricious.

(e) In cases arising from conviction or indictment, or in which there are no disputes of material fact, the Senior Procurement Executive, or designee, conducts the hearing required by FAR 3.204(b).

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, in accordance with FAR 3.204(b) either orally or in writing, consistent with a schedule the Senior Procurement Executive, or designee, estab-

lishes. The Senior Procurement Executive, or designee, exercises the Government's rights under FAR 3.204(c) only after considering mitigating factors.

[64 FR 37204, July 9, 1999, as amended at 74 FR 51511, Oct. 7, 2009]

Subpart 503.4—Contingent Fees

Subpart 503.5—Other Improper Business Practices

503.570 Advertising.

503.570-1 Policy.

GSA policy precludes contractors from making references to GSA contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

[64 FR 37204, July 9, 1999, as amended at 74 FR 51511, Oct. 7, 2009]

503.570-2 Contract clause.

Insert the clause at 552.203-71, Restriction on Advertising, in solicitations and contracts, including acquisitions of leasehold interests in real property, if the contract amount is expected to exceed the simplified acquisition threshold.

Subpart 503.7—Voiding and Rescinding Contracts

503.703 Authority.

Pursuant to FAR 3.703 and 3.705(b), the authority to void or rescind contracts resides with the Senior Procurement Executive.

[74 FR 51512, Oct. 7, 2009]

Subpart 503.10—Contractor Code of Business Ethics and Conduct

503.1004 Contract clauses.

(a) The FAR threshold for the clause at 52.203-14, Display of Hotline Poster(s), is \$5,000,000. However, GSA has exercised the authority provided at FAR 3.1004(b)(1)(i) to establish a lower threshold, \$1,000,000, for inclusion of

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the clause when the contract or order is funded with disaster assistance funds.

(b) The information required to be inserted in the clause at FAR 52.203–14, Display of Hotline Poster(s), is as follows:

- (1) Poster: GSA Office of Inspector General “FRAUDNET HOTLINE”; and
- (2) Obtain from: Contracting Officer.

[74 FR 51512, Oct. 7, 2009]

PART 504—ADMINISTRATIVE MATTERS

Subpart 504.4—Safeguarding Classified Information Within Industry

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504.402 General.

504.475 Return of classified information.

Subpart 504.5—Electronic Commerce in Contracting

504.500 Scope of subpart.

504.502 Policy.

504.570 Procedures for using the EPS.

Subpart 504.6—Contract Reporting

504.602–71 Federal Procurement Data System—Public access to data.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 64 FR 37205, July 9, 1999, unless otherwise noted.

Subpart 504.4—Safeguarding Classified Information Within Industry

504.402 General.

(a) This subpart:

(1) Prescribes procedures for safeguarding classified information required to be disclosed to contractors in connection with the solicitation of offers, and the award, performance, and termination of contracts.

(2) Implements the requirements of the Department of Defense’s Industrial Security Regulation (ISR) and Industrial Security Manual for Safeguarding Classified Information (ISM). By agreement, the Department of Defense (DOD) will act for, and on behalf of, GSA in rendering security services required for safeguarding classified information released by GSA to U.S. industry.

(b) As used in this subpart, the term:

(1) “Contractor(s)” means prospective contractors, subcontractors, vendors, and suppliers.

(2) “U.S. industry” means those industries (including educational and research institutions) located within the United States, its possessions, and the Commonwealth of Puerto Rico.

504.475 Return of classified information.

(a) You must recover classified information unless it has been destroyed as provided in paragraph 19 of the ISM. The Government agency that provided classified information to a GSA contractor is responsible for the return of the information.

(b) You must ensure that classified information furnished to prospective offerors, offerors, or contractors is returned immediately after any of the following:

(1) After bid opening or closing date for receipt of proposals by non-responding offerors.

(2) After contract award by unsuccessful offerors.

(3) Upon termination or completion of the contract.

(4) Upon notification that authorization to release classified information has been withdrawn.

(5) After notification that a facility:

(i) Does not have adequate means to safeguard classified information.

(ii) Has had its security clearance revoked or inactivated.

(6) Whenever otherwise instructed by the authority responsible for the security classification.

Subpart 504.5—Electronic Commerce in Contracting

504.500 Scope of subpart.

This subpart provides policy and procedure for use of GSA’s Electronic Posting System (EPS).

504.502 Policy.

(a) The EPS is GSA’s primary vehicle for disseminating synopses and written solicitations. GSA intends that the EPS will substitute for, not supplement, paper copies of solicitations.